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SIPDIS

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STATE FOR EB/TPP/IPE
STATE FOR EUR/WE KEVIN OPSTRUP
COMMERCE FOR ITA/MAC/OIPR

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TAGS: [ECON](#) [ETRD](#) [KIPR](#) [PO](#)

SUBJECT: PORTUGAL: SPECIAL 301 WATCH LIST NOT RECOMMENDED

REF: STATE 8475

¶1. (SBU) Post recommends that Portugal remain off the 2008 Special 301 Watch List. Overall, intellectual property rights (IPR) protection in Portugal is adequate and IPR legislation is generally consistent with WTO rules, EU directives, and the trade-related intellectual property (TRIPS) provisions of GATT, with the exception of pharmaceutical industry complaints outlined below.

¶2. (SBU) The pharmaceutical industry is the only industry to have brought IPR issues to the Embassy's attention. In December 2007, the Pharmaceutical Research and Manufacturers of America (PhRMA) Local American Working Group (LAWG) issued a white paper to the Portuguese Government, which it shared with the Embassy. The LAWG has asked the Embassy not take any actions related to USTR's Special 301 Watch List. The White Paper makes the following accusations:

a) that Portugal is not complying with Part III of TRIPS, Article 41 which covers expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringement, and Article 50 that provides for prompt and effective provisional measure to prevent infringement.

b) that Portugal has not completely and effectively transposed the European Union's IPR Enforcement Directive (2004/48/EC) which should have been completed by April 2006,

c) and that the new Medicines Code, approved by Decree-Law 176/2006, does not contain legal language similar to its predecessor, providing for authorization of generic drugs following the expiry of the IPR in respect to the active substances or the process of manufacture.

¶3. (U) Post is not aware of any other industry complaints.

¶4. (SBU) In an effort to strengthen targeted groups' understanding of the economic benefits of IPR protection, post is actively encouraging greater Portuguese participation in training programs at the USPTO's Global Intellectual Property Academy (GIPA). Lack of funding often prohibits Portuguese participation in GIPA programs. As such, post has solicited the Luso-American Development Foundation (FLAD) to fund up to four host-government officials to attend GIPA programs per year starting in 2008.

Stephenson